THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6296 OF 2006

DATED: 31-03-2006

BETWEEN

St. Joseph's Educational Society,

Kurnool, Rep. by its Secretary and

Treasurer, Smt. C. Rojamma.

...PETITIONER

AND

The Kurnool Municipal Corporation,

Kurnool rep. by its Commissioner.

...RESPONDENT

ORDER:

Petitioner-society seeks a Writ of Mandamus to declare the action of the respondent in not considering the grant of permission for construction of a school building in Survey No.140/2A situated in Kurnool pursuant to the application dated 20.06.2005 in spite of compliance of the objections raised by the respondent as intimated on 18.10.2005, as illegal and arbitrary.

Learned counsel for the petitioner-society submits that the petitioner-society is the absolute owner and possessor of Ac.1.25 cents of land in Survey No.140/2A having purchased the same under a registered sale deed dated 05.03.2004 from the legal representative of Late

K. Lakshman Rao Naidu. He further submits that the said property was purchased for the purpose of construction of a primary school building and for expansion of the activities of the school.

The learned counsel further submits that the petitioner-society made an application on 06.07.2004 to the respondent seeking permission for construction of a school building on the said land but the same was returned on 04.08.2004 raising certain objections relating to the clarification from the District Collector, regarding the ownership of the site purchased by the petitioner-society. The petitioner-society filed another application dated 01.11.204 bringing to the notice of the respondent that the Tahsildar, Kurnool filed OP.No.107 of 1984 on the file of the District Judge-cum-Special Tribunal, Kurnool, under the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 claiming that the land in Sy.No.140/2A is classified as village site proamboke, seeking a declaration that the petitioner's predecessors in title were land grabbers but the said OP was dismissed by order dated 31.08.1989 holding that the petitioner's predecessors were in exclusive possession and enjoyment of the land in question.

The learned counsel further submits that in spite of such clarification the respondent vide further orders dated 17.11.2004 informed the petitioner-society that the clarification sought from the District Collector is still awaited. Aggrieved by the same, the petitioner filed WP.No.2231 of 2005 and this Court by order dated 09.06.2005 directed the petitioner to re-submit the application within a period of two weeks thereon, in which event the first respondent was directed to consider the same in the light of the finding recorded in OP.No.107 of 1984 and without insisting on production of No Objection Certificate from the second respondent. Following the order of this Court, the petitioner-society resubmitted the application on 20.06.2005 but the respondent vide his endorsement dated 14.07.2005 returned the same by raising as many as six objections. He further submits that all the six objections have been complied with by filing a representation dated 18.10.2005. Meanwhile, the respondent filed WA.No.2368 of 2005 questioning the order dated 09.06.2005 in WP.No.2231 of 2005 and the Division Bench of this Court dismissed the same by order dated 24.01.2006. Thereafter, the petitioner-society filed another representation dated 08.02.2006 but the respondent has not considered and disposed the same.

Having regard to the facts and circumstances of the case,

the respondent is directed to consider the representation of the petitioner-society dated

08.02.2006 in view of the applications filed by the petitioner-society on various dates from 06.07.2004 to 18.10.2005 and pass appropriate orders within two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 31, 2006

DSK